

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

S.G. and S.G., as parents and guardians of L.G.,)
a minor,)

Plaintiffs,)

v.)

ROCKFORD BOARD OF EDUCATION and)
KENNETH HELD, in His Capacity as Principal)
of Rolling Green Elementary School,)

Defendants.)

Case No.: 08-C-50038

Judge: Kapala
Magistrate Judge Mahoney

DEFENDANTS' MOTION TO DISMISS COUNT IV OF PLAINTIFFS' COMPLAINT

NOW COME the Defendants, ROCKFORD BOARD OF EDUCATION, SCHOOL DISTRICT NO. 205, WINNEBAGO-BOONE COUNTIES, ILLINOIS, (incorrectly identified as “Rockford Board of Education” and hereinafter referred to as “the Board”) and KENNETH HELD, in his Capacity as Principal of Rolling Green Elementary School (hereinafter “Principal Held”), by and through their attorney, Lori L. Hoadley of HINSHAW & CULBERTSON LLP, and pursuant to Federal Rule of Civil Procedure 12(b)(6), move to dismiss Count IV of Plaintiffs’ Complaint, stating as follows:

1. Plaintiffs, S.G. and S.G., as the parents of a minor, L.G., have sued the Rockford Board of Education, District No. 205, and its principal of Rolling Green Elementary School, Kenneth Held, in his official capacity, seeking compensation under a variety of claims and theories arising from the alleged sexual harassment of L.G. by one of her first-grade classmates.

2. Count IV of Plaintiffs’ Complaint asserts a claim against Defendant, Principal Held (“Principal Held”), under a theory of negligence, alleging that Principal Held was negligent

in failing to implement measures and policies to adequately protect L.G. from her first-grade classmate.

3. Because Count IV pleads negligence based upon Principal Held's allegedly negligent decision-making and implementation of policy, Count IV is barred under the Local Governmental and Governmental Employees Tort Immunity Act ("Tort Immunity Act"), 745 ILCS 10/1-101 *et seq.*

WHEREFORE, for the reasons set forth herein and in the Memorandum of Law filed concurrently with this Motion, the Defendants, ROCKFORD BOARD OF EDUCATION, SCHOOL DISTRICT NO. 205, WINNEBAGO-BOONE COUNTIES, ILLINOIS, and KENNETH HELD, respectfully request that this Court enter an Order dismissing Count IV with prejudice.

Respectfully submitted,

HINSHAW & CULBERTSON LLP

By: s/ Lori L. Hoadley
Lori L. Hoadley

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AFFIDAVIT OF SERVICE

The undersigned, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, hereby under penalty of perjury under the laws of the United States of America, certifies that on May 5, 2008, a copy of the foregoing was served upon:

S.G. and S.G. v. Rockford Board of Education, School District No. 205

For Plaintiff:

Joyce O'Neill Austin, Esq.
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By depositing a copy thereof, enclosed in an envelope in the United States Mail at Rockford, Illinois, proper postage prepaid, before the hour of 5:00 P.M., addressed as above.

/s Rhonda Walker

Firm No. 695
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